

FILED

UNITED STATES DISTRICT COURT
WESTERN DISTRICT of TEXAS
SAN ANTONIO DIVISION

MAR 29 2006

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK

UNITED STATES of AMERICA,

Plaintiff-Respondent

v.

ANGEL LATORRE,

Defendant-Movant

§ **SA 06CA 0249**

Civil Action

No. SA-06-CA-_____ FB

Criminal Case

No. SA-01-CR-644-EP

DISMISSAL ORDER

Before the Court is movant Latorre's self-styled "Motion to Vacate Sentence under the Constitution and Statutes." The motion represents another attempt by movant Latorre to challenge the two 105 month concurrent sentences he received in 2002 for attempting to coerce and entice a minor to engage in sexual activity and traveling in interstate commerce with intent to engage in sexual activity with a juvenile in violation of 18 U.S.C. §§ 2422(b) and 2423.¹ Specifically, movant Latorre argues the Court imposed an illegal and unconstitutional three year term of supervised release. After thoroughly reviewing movant Latorre's motion, the record of the criminal proceedings, and this Court's denial of movant Latorre's initial § 2255 motion on January 19, 2005,² *this Court construes movant Latorre's instant motion as a poorly veiled attempt to file a second or successive § 2255 motion and directs the Clerk of Court to docket and file it as such.*

A movant that has previously filed a § 2255 motion attacking federal sentence may not proceed with a second or successive § 2255 motion without the authorization of the Court of Appeals that the second or successive motion alleges newly discovered evidence or is based on a new rule of constitutional law made retroactive to cases on collateral review by the Supreme

¹Docket entry no. 21.

²Docket entry no. 31.

Court. See *In re Tolliver*, 97 F.3d 89, 90 (5th Cir. 1996). Movant Latorre failed to present an order to this Court from the Fifth Circuit Court of Appeals authorizing the filing of this successive motion.

Therefore, it is hereby **ORDERED** movant Latorre's self-styled "Motion to Vacate Sentence under the Constitution and Statutes." is construed as a second or successive § 2255 motion and is **DISMISSED WITHOUT PREJUDICE** as successive and for failure to obtain the authorization of the Court of Appeals to file a successive motion pursuant to § 2255.

It is so ORDERED.

SIGNED this 29th day of March, 2006.



Fred Biery
United States District Judge